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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fourth session

PROVISIONAL SUMMARY RECORD OF THE 1015th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 1 March 1994, at 3 p.m.

Chairman: Mr. GARVALOV

CONTENTS

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)

Eleventh periodic report of France (continued)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Eleventh periodic report of France (CERD/C/225/Add.2) (continued)

1. At the invitation of the Chairman, Mr. Potocki, Mr. Grignon du Moulin, Mr. Riera, Mr. Kincher, Mr. Delbos and Mr. Rimuy (France) took places at the Committee table.

2. Mr. VALENCIA RODRIGUEZ thanked the French delegation for the additional information it had provided, particularly on the situation in overseas departments and territories and on the new Penal Code that had entered into force that day.

3. He commended the enactment in 1990 and 1992 of new instruments designed to strengthen anti-racist legislation and the establishment of departmental units to coordinate action to combat racism.

4. According to paragraph 8 of the report, convictions on a principal charge of racism had dropped by 40 per cent, from 87 to 52, between 1984 and 1989. He wondered how those figures could be reconciled with reports in the media and from non-governmental organizations that pointed to an increase in racist incidents and racial discrimination.

5. With regard to Act No. 89-548 of 2 August 1989, which, according to paragraph 9 of the report, had improved the conditions governing the residence of foreigners in France, it would be interesting to know what practical results had been achieved in the intervening period. Turning to Act No. 90-615 of 30 July 1990, which established the new offence of questioning the existence of crimes against humanity, he noted that many such cases had arisen in France in connection with crimes committed during the Second World War. What action had been taken against the offenders and what penalties had been imposed?

6. He was also interested to know what action had been taken to enforce the provision of the Act of 31 December 1987 prohibiting the offering, giving or selling to minors of publications of a racist or xenophobic nature.

7. Noting that the report of the National Advisory Commission on Human Rights for 1992 contained a description of manifestations of racism and xenophobia, he requested further information on the activities of the Unit to Combat Racism and Anti-Semitism.

8. With regard to article 4 of the Convention, he noted that, under the new Penal Code, legal persons could be declared criminally responsible for acts of discrimination committed by a private individual. The Code also introduced a new aggravating circumstance in the case of offences against respect for the dead.

He trusted that France would keep the Committee informed on the practical application of those provisions.

9. Control of immigration flows was mentioned in paragraph 4 of the report as one of the main focuses of immigration policy. He asked for clarification of that concept and some indication of its scope. He was pleased to note that action was being taken to improve the integration of the foreign population living in France and asked whether the native languages of the immigrants concerned were used as the medium of communication for such efforts, at least in the initial stages.

10. In connection with article 6 of the Convention, he inquired about the practical impact of the decision to extend the list of associations authorized to institute legal proceedings in cases of incitement to racial discrimination, hatred or violence, defamation or insult.

11. He also hoped that the Committee would be kept informed of the work of the Interministerial Unit to Coordinate Action to Combat Racism and its departmental subunits.

12. Mr. FERRERO COSTA thanked the French authorities for sending such a large delegation and expressed appreciation of the volume of supplementary written and oral information that had been provided.

13. Referring to the section of the core document submitted by France (HRI/CORE/1/Add.17) concerning the integration of international human rights instruments into national law, he noted that article 55 of the French Constitution contained a provision that seemed to make such integration dependent on an instrument being implemented "by the other party", a reservation that was, in his view, incompatible with international law. Human rights norms were universal and should not depend for their application on compliance by other parties. If the provision referred solely to bilateral agreements, that should have been made explicit in the article. He asked the French delegation for an explanation of the apparent anomaly. He was also somewhat disturbed by the statement in a subsequent paragraph to the effect that, when an individual invoked the provisions of a convention, it was up to the judge to decide whether such provisions were directly applicable.

14. He was concerned at the marked increase in racism and xenophobia throughout Europe and asked what action France was taking, for example in the context of the European Union, to halt that trend.

15. Welcoming the 1992 report of the National Advisory Commission on Human Rights, he asked whether the French delegation could give any indication of the content of the as yet unpublished report for 1993. What were the latest trends, for example, with respect to racial discrimination and xenophobia?

16. He was extremely surprised to note that there had been no increase in the number of foreigners living in France in the past 10 years. How could the French

delegation account for the apparent contrast with trends in other European countries? Was there some magic formula, a policy not immediately evident to outside observers, that had enabled the authorities to prevent an increase in immigration?

17. An extremely important subject that had not been covered in the French report was the new Nationality Code, which he feared was a step backwards in relation to the previous legislation, for example, with regard to jus soli, the principle that a person's nationality at birth was determined by the territory within which he or she had been born. It was conceivable under the new Code that children of foreign parents living in France would be stateless up to the age of 16 if the law in their country of origin did not provide for jus sanguinis, the principle that a person's nationality at birth was the same as that of his or her parents.

18. A highly commendable development, on the other hand, was the incorporation of four crimes against humanity in French domestic legislation. What were the main penalties imposed for such crimes?

19. The extension of criminal responsibility to legal persons was also an important innovation. He assumed that the penalties in such cases would have to be of an economic nature, since only natural persons could be sentenced to imprisonment.

20. He was surprised that no information had been given on the vitally important subject of ethnic groups of French nationality in France. He would also have appreciated further information on persons living in the overseas departments and territories, including their political rights, their right to own property and their access to education and health services. Did racial discrimination exist and, if so, what action was being taken to remedy the situation?

21. He asked whether, under French law, a non-governmental organization could institute proceedings against an association that was promoting acts of racial discrimination.

22. Given the spread of racist attitudes among young people throughout Europe, were the French authorities taking any educational action to counter such attitudes and change the mentality that gave rise to them?

23. Mr. BANTON said that the information provided by the French delegation on the new administrative arrangements that had been put in place in France for the implementation of its anti-racist policy was extremely important.

24. His impression was that French people viewed racism primarily as an ideological problem to be countered by criminal penalties, but racial discrimination could also stem from non-ideological factors and might therefore need to be redressed by other types of sanctions. Had France given any thought to the possibility of remedies under civil law?

25. He felt that it was time to review the regulations restricting certain occupations to persons of French nationality and suggested that care should be taken in any such review to avoid discrimination on grounds of race or ethnic origin.

26. With regard to the regulations concerning immigration and residence in France, there had been a great deal of criticism of instances of regulations, which were not in themselves discriminatory, being applied in a discriminatory manner. Had the French Government responded to that criticism?

27. In connection with article 2 of the Convention, he would like to hear more about consultations with victims of racial discrimination and about whether any progress had been made in uncovering deficiencies in the administrative system.

28. He was interested in hearing whether the process of reporting under the Convention had any influence on arrangements for reviewing French policy.

29. Noting that there were powerful movements in industrial societies making for social segregation in terms of class and ethnic origin, he drew attention to the danger of educational segregation being reinforced when Governments gave parents more choice in terms of schooling for their children. He hoped that the French authorities and, in particular, the Interministerial Urban Commission would take that aspect into account.

30. Referring under article 4 to a conviction for racial defamation in France that had been overturned in 1991 by a court of appeal, he asked whether that indicated any lacuna in the law.

31. In another case, a Frenchman had been sentenced to five years' imprisonment for murdering a foreigner. Although there had been no extenuating circumstances, four years of that sentence had been suspended. Had a period spent in custody pending trial been deducted from the sentence imposed at the trial? Even if that were so, the sentence seemed unduly light and he hoped that the French Government would check on the severity of sentences being imposed for racist attacks. He added that statistics on such attacks might be misleading because, in the case referred to, the victim had actually held French citizenship.

32. With regard to the distinction between a "délit" (misdemeanour) and a "crime" (felony), was it true that racial motivation could be taken into consideration in the case of a "crime" only if there were evidence of premeditation?

33. He was concerned about the effectiveness of methods for the training and supervision of police officers. Was France confident that the current arrangements were satisfactory?

34. When an association brought a case of racism before the courts, what amounts were normally awarded as damages?

35. In many Western European countries, the police and prosecutors seemed to be reluctant to recognize racist motivation in a reported offence. Was the French Government aware of that problem and what were its implications for the principle of equality before the law?

36. He asked what steps were being taken to encourage the recruitment of persons who were not of French ancestry into a variety of occupations related to law enforcement, including the police force. Had any inquiry been made into the incidence of racial discrimination in the armed forces?

37. In the light of the forthcoming study by the International Labour Office on racial discrimination in the world of work, he asked whether the French authorities had given any thought to what their response might be to the findings of that study. Was the current remedy of complaining to the Labour Inspectorate effective in the case of persons of non-French ancestry?

38. He also hoped for additional information on equal access to housing and health services for persons of different ethnic origin.

39. He regretted that little reference was made in the reports of States parties to the role of the mass media in forming and transmitting images of ethnic groups. The Higher Council on Integration in France seemed to be looking into the matter and it would be interesting to hear about its findings in due course.

40. As France's next report was due in August 1994, he suggested that it might simply submit an updating report for that deadline, which would be considered without a State representative being present, and prepare a truly comprehensive report for the following deadline in 1996.

41. Mrs. SADIQ ALI, endorsing the comments made by previous speakers, including those concerning the police force, said that two regions in France, Ile de France and Provence-Côte d'Azur, were reported as being most seriously affected by racist violence and asked whether the French Government had taken any specific action to check such violence.

42. Referring to the sizeable Berber-speaking population in France - reportedly over half a million - and particularly in Paris, she asked what the position of that population was in France today. A new Berber literature written in Latin script, modern music and numerous sociological and linguistic studies were examples of Berber achievements. She asked whether Berber culture was being encouraged or whether the new policy was to integrate them into society as French citizens.

43. She wished to know whether the text of the Convention on the Elimination of All Forms of Racial Discrimination was widely disseminated in France. In his study contained in document A/CONF.157/PC/62/Add.11/Rev.1, Mr. Philip Alston had recommended that full information should be given about the languages in which the treaty was available, the number of copies printed in each language, the extent to which those copies had been freely and widely disseminated and the

means used for that purpose. He had further stated that efforts to ensure the protection of human rights could not be deemed adequate in the absence of a concerted effort to ensure that the holders of those rights were informed of the content of the rights as well as the means by which they might be vindicated. Further information on that subject would be appreciated with reference to article 7 of the Convention. She wished to know whether there were any effective procedures in France for following up the Committee's examination of its periodic reports. Information on cases dealt with by the courts dealing with racial discrimination would also be useful.

44. Mr. ABOUL-NASR said he agreed with Mr. Yutzis that the phenomena of racial discrimination and xenophobia and the problems facing France were not confined to that country but affected most European countries. It was the Committee's task to address such issues, which were becoming increasingly serious. Although he trusted that French legislators were doing their best to combat discrimination against all groups, he had found scant information on the extent of discriminatory incidents involving a group of particular concern to him, the Arab population. Such incidents, including those involving schoolgirls wearing the Islamic veil at school, were widely reported in the media and he hoped that more information would be provided in the next report, since such issues needed to be discussed openly.

45. The information provided in paragraphs 37 to 42 of the report on the implementation of article 4 of the Convention was somewhat vague and unsatisfactory in view of the crucial importance of article 4. He was aware that France had entered a reservation concerning article 4 when acceding to the Convention, thus indicating its intent to refrain from implementing it fully.

46. What remained unclear was the extent to which its reservation applied, i.e. where the borderline lay beyond which the article ceased to apply in France. Article 4 (b), for example, required States parties to take preventive action against racist organizations and propaganda activities and to make participation in such organizations and activities offences punishable by law. Did France's reservation mean that such groups were authorized? Was it really necessary for a crime to be committed before penalties were imposed?

47. As he saw it, with the events taking place daily throughout the world, propaganda or activities involving incitement to racial hatred could not be allowed under the pretext of freedom of expression. Where it led to suffering and even mass killings or war, there must be a limit to such freedom.

48. Lastly, in connection with a reference to the right of reply in the report, he asked whether that meant the right of Jews to appear on television to applaud the recent Hebron massacre and insult Arabs, as he himself had witnessed on the previous day. There was a difference between criticism and incitement to hatred, of which that was an example. In conclusion, he said that it was the Committee's concern to ensure full and fair implementation of the Convention.

49. Mr. RECHETOV said that he welcomed the substantial amount of new information provided in the report and the obvious concern of the French Government to resolve and regulate the complex issues arising from immigration flows.

50. He requested clarifications, either at the current session or in a subsequent report, about the exact scope of the new and extremely interesting provision of the Act of 13 July 1990 establishing the offence of questioning the existence of crimes against humanity. The point was that the provision as quoted in paragraph 16 of the report referred specifically to crimes against humanity "which are defined by article 6 of the Statute of the International Military Tribunal annexed to the London Agreement of 8 August 1945", the implication being that it was particularly concerned with the context of the Second World War and directed against those who advocated revisionist theories of the Holocaust. It could be said that the "sub-text" was anti-Semitism. The wording appeared to leave some doubt or room for misinterpretation by those applying the law as to whether other crimes against humanity were covered. Although the definition of such crimes was legally very complex, there was a danger that certain other equally barbaric acts, such as flagrant and massive violations of human rights, might go unpunished. Crimes against humanity had not ceased in 1945; other acts that could be so described had been committed, for instance, in the Middle East and in the former Yugoslavia.

51. Mr. SHAHI said that he endorsed the previous speaker's comments. Like Mr. Ferrero Costa, he would like clarification about the status of international human rights instruments, especially the Convention, in the French legal system. Paragraphs 71 to 74 of the core document (HRI/CORE/1/Add.17) stated that, although international treaties were part of the French legal system without requiring the enactment of domestic legislation, there were cases in which such instruments were not self-executing and it was somewhat unclear whether the remedies provided for in the Convention were available under French law. In paragraph 74, it was stated that it was up to the judge to decide whether the terms of a convention were directly applicable. According to paragraph 72, although the Constitutional Council had the authority to rule on the constitutionality of laws and, in particular, on their conformity with article 55 of the Constitution, that Council none the less left it to various State bodies to ensure the implementation of international agreements. He wondered whether it was not preferable to have an overall authority guaranteeing protection to individuals and groups rather than leaving it to the individual discretion of State bodies or judges, as appeared to be the case.

52. He, too, felt that further explanations were needed about the offence of questioning the existence of crimes against humanity referred to in paragraph 16 of the report. It was not clear who the offenders might be or whether the mere fact of questioning such crimes was prohibited. He also wished to know whether there was any particular reason for referring to the Statute of the International Military Tribunal annexed to the London Agreement of 8 August 1945 and not, as seemed more relevant, to the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

53. While France's record on legislation to combat racial discrimination was most impressive, it should never be forgotten that the most crucial question was whether all the provisions of the law were effectively implemented. He hoped that the Committee's dialogue with that State party would lead to further protection and promotion of human rights and measures to combat racial discrimination and that France, with its great democratic tradition, would be in the vanguard of nations affording protection against racism, xenophobia and the victimization of ethnic groups.

54. The CHAIRMAN, speaking as a member of the Committee, asked whether the existence of political parties organized along ethnic and/or religious lines was authorized in France. For example, would a group of French citizens of Arab origin, who practised the Muslim religion, be allowed to form a party along such lines? Similar questions might be asked of other States parties submitting periodic reports. Might not a negative reply suggest an element of racial discrimination?

55. Mr. POTOCKI (France) said that, if there was a correlation between the number and quality of the questions asked and progress in the dialogue between the Committee and a State party to the Convention, a considerable advance could confidently be predicted in the present instance: the members of the Committee had given the French delegation a great deal of food for thought. He assured Mr. Yutzis that the concerns expressed were already being discussed in political circles in France and would leave him responsibility for the link he had established between the positions taken by the leader of a political party on the extreme right and those of a Minister of State, Minister of the Interior and member of the current Government of France.

56. In accordance with their respective responsibilities, he and his colleagues would endeavour to group their replies to the many questions asked. Although the Convention did not apply to any distinctions made by a State party between citizens and non-citizens, they would willingly provide clarifications concerning the new French Nationality Code and the most recent legislation relating to immigration.

57. Mr. GRIGNON du MOULIN (France) said that the carefully prepared reform of the French Nationality Code enacted on 22 July 1993 was primarily the result of the deliberations of a broadly representative non-governmental commission set up in 1987. Central to the commission's findings was the view that the voluntary choice of nationality was conducive to integration. Henceforth, young persons born in France of non-French parents and residing in France would be able to exercise such a choice at any time between the ages of 16 and 21. Previously, French nationality had automatically been granted to such persons at the age of 18. The traditional concept of the jus soli was thus not called in question under the new law.

58. The new Code provided that French nationality was granted automatically at birth to the offspring of French parents born in France or abroad; and to those born in France of non-French parents also born in France. It was also granted at

birth to the offspring born in France of parents born abroad when the parents did not transmit their own nationality, either because they were stateless persons or because their nationality was not transmissible.

59. Young persons born in France of non-French parents were invited to exercise their choice of nationality between the ages of 16 and 21. Up to the age of 18, no legal impediment could be placed in the way of a choice in favour of French nationality on the grounds of previous irregular residence or conduct; nor could the government authorities deny such a choice. A nationwide information campaign designed to bring all those matters to the attention of the young people concerned was to be organized in 1994. The Council of State was currently considering a decree that would require different authorities to make such information available on a permanent basis.

60. Up to the time of choice, a young person born in France of non-French parents normally had their nationality and was automatically entitled to a residence permit, which also served as a work permit, in accordance with an Order dating back to November 1945.

61. Beyond the age of 21, young people who had not opted for French nationality could acquire it either through the regular process of naturalization or by marriage. In the latter case, the new Code provided for a period of two years rather than the previously required six months before

the non-French spouse could acquire French nationality. The administrative procedures in each case had been considerably simplified for those who met the necessary conditions.

62. In reply to a question by Mr. Ferrero Costa, he said that each year, some 100,000 foreigners acquired French nationality, a figure which partly explained the relative stability of the foreign population. In 1990, some 3,600,000 foreigners had been resident in France. The population had also included approximately 1,300,000 French citizens of foreign origin. In reply to a question by Mr. Song Shuhua, he said that the numbers of persons of Cambodian, Vietnamese, Laotian and Chinese origin residing in France in 1990 had been 38,231, 29,855, 23,703 and 12,672 respectively; the figures for French-born nationals of those countries resident in France in the same year had been 9,138, 3,888, 8,100 and 1,065.

63. Mr. RIERA (France), replying to questions relating to immigration, said that the French authorities' dual objective of controlling rather than imposing specific or selective quotas on the influx of foreigners from different countries and of combating clandestine entry into the country reflected the determination to ensure that the principle of the free movement of goods and persons, to which France was wholly committed, was neither distorted nor abused. Firm measures to control the lawfulness of movement across the country's borders and to persuade non-citizens found guilty of entering France illegally to return where they had come from might be termed "discriminatory" in comparison with the treatment accorded to French citizens. They were, however, certainly deemed to be justified and, in that area, as in other related areas, the legislation in force had been submitted to the rigorous scrutiny of the Constitutional Council, which monitored its conformity with the relevant international instruments to which France was a party. Recent amendments to the legislation on identity checks, administrative detention, conditions in international transit zones in airports and seaports, family reunification, medical assistance and the granting of asylum had significantly strengthened the protection of foreigners.

64. In reply to questions and criticisms from various sources concerning conditions of administrative detention, especially in the Paris Police Prefecture, he said that current shortcomings had been officially acknowledged and were being remedied; steps were also being taken to ensure that persons so detained could fully exercise their rights.

65. Referring to political asylum, he pointed out that, while France was a party to the Convention relating to the Status of Refugees and respected all its provisions, the preamble to the Constitution of the French Republic singled out a particular set of circumstances which made the granting of asylum mandatory in the case of claimants arriving directly on French soil from their own countries or from countries which were not members of the European Union. Together with the other members of the Union, France had signed the Dublin Convention and the Schengen Agreement, neither of which had yet officially entered into force, but whose provisions it was implementing, particularly where the handling of requests for political asylum was concerned. It could be assumed that all the European

Union countries would respect the Convention relating to the Status of Refugees and that the guarantees it enshrined, as well as that written into the preamble of the French Constitution, would be upheld. Under both the Dublin Convention and the Schengen Agreement, moreover, France could review any request for asylum that had already been considered by one of its European partners.

66. With regard to mixed marriages, he noted that entry into France was subject to certain conditions. Foreign spouses of French citizens who met those conditions were allowed to enter the country, but had to wait one year before receiving a residence permit, which also served as a work permit. During that period, residence was provisionally authorized; if the person in question provided evidence of employment in the form of a contract, he or she was given worker status.

67. In the case of social security, he said that access to the French health service was also conditional on regularity of status. Nevertheless, the medical assistance scheme available to all persons in accordance with the provisions of the relevant European conventions to which France was a party was applicable to illegal immigrants.

68. In reply to the questions on the training of police officers, he said that recruitment was subject to stringent conditions: even if they passed the entrance examinations, candidates must have a clean record. Like all public officials, police officers had duties and obligations to fulfil. They were liable to harsh penalties for service-related or personal faults. They had to carry a copy of the code of ethics, which contained some 20 regulations they had to comply with in the performance of their functions. The initial and in-service training of police officers was regularly reviewed in the light of experience and requirements.

69. Four members of the Independent Professional Police Federation (FPIP), including its General Secretary and some members of its General Committee, had been dismissed after organizing and participating in a protest demonstration that had been prohibited by the authorities.

70. Mr. KINCHER (France), replying to the Chairman's question whether political parties representing a specific religion or ethnic group were authorized in France, said that, under French law, a political party constituted an association and, as such, was entitled to have objectives of an ethnic or religious nature, provided that those objectives did not include racial discrimination, racial or religious hatred, or the overthrow of democracy. To his knowledge, however, there were no significant political parties in France representing specific religious faiths or ethnic groups.

71. Mr. Yutzis had asked whether harsh penalties were imposed in France for racist offences. For the offence of uttering racist insults, the courts had handed down 9 sentences of imprisonment and 18 suspended sentences in 1991 and 8 prison sentences and 13 suspended sentences in 1992. For the offence of incitement to racial hatred, three prison sentences and seven suspended

sentences had been handed down in 1991 and two prison sentences and three suspended sentences in 1992. Those examples showed that penalties for such offences continued to be harsh. In December 1992, the Court of Paris had sentenced two persons to six months' imprisonment for publishing a pamphlet advocating an "Aryan State" along Nazi lines.

72. In reply to the question on why the rate of convictions for racist offences appeared to be falling in France when such offences were on the increase, he pointed out that statistics recorded only final convictions, which were often handed down several years after the offence had been committed. A person might thus be sentenced in 1991 for an offence committed in 1990; his case might then go to the court of appeal and a final decision would not be taken until 1993.

73. Mr. Yutzis had referred to a prisoner who had died of hunger while in custody: that was a dramatic, but, fortunately, isolated case. The prisoner concerned had not been on hunger strike, but had refused all food offered him in the belief that it was poisoned. An examining magistrate had been instructed to look into the case in order to establish the cause of death and, in particular whether any liability for failure to assist a person in danger might have been involved.

74. One member of the Committee had asked what France was doing to combat the resurgence of Nazism and of racist ideologies. In principle, French law upheld freedom of opinion and expression, but it also recognized that limits had to be set to that freedom. Abuse of freedom of expression was thus an offence, especially in the case of conduct likely to disturb public order.

75. As stated in paragraph 16 of the report, article 24 bis of the Act of 29 July 1881 made it an offence to question the existence of crimes against humanity, for example by denying that concentration camps had existed or that genocide had been committed during the Second World War. It was also an offence to condone crimes against humanity or to present war criminals in a favourable light. An act of 6 December 1993 prohibited the display of racist insignia in sports stadiums on penalty of being banned from attending such stadiums for up to five years. In reply to a question on the disbanding of racist groups, he agreed that it was important not only to stamp out such groups, but to prevent their being formed. Any association or party advocating racial hatred or violence or seeking to undermine the authority of the State was liable to be disbanded. Until now, the procedure for disbanding such groups had been administrative - via presidential decree - rather than judicial, but article 131 (39) of the new Penal Code made such an offence on the part of a legal person punishable by law.

76. There had recently been a change in the law governing identity checks. Police officers were entitled to ask to check identity papers only in cases involving a threat to public order or danger to persons or property: any identity check on a foreigner merely on the basis of his physical appearance would thus be considered invalid by the courts.

77. Article 225 (1) of the new Penal Code defined discrimination as any distinction made between persons on the basis of their origin, their handicap or their membership or non-membership of a specific ethnic group, religion, race or nation. On the matter of the burden of proof, the principle of the presumption of innocence was generally applicable in French law and the burden of proof thus lay with the prosecution.

78. One member of the Committee had asked how an ethnic group was to be defined. Although such a definition was difficult, he could say that ethnic groups corresponded to regional groups or groups of regional origin. A person of Algerian origin who was refused a hotel room on ethnic grounds would thus be protected by law in the same way as a person of Basque or Breton origin. The courts could authorize the publication of rulings in such cases, including the names of the offender and the victim, the object being both to educate the public and to punish the person responsible.

79. Deprivation of civil liberties could be imposed for a maximum period of five years. A person so sentenced would be banned from jury duty and from holding a position in the public service, as well as from standing for election. Such a penalty was often imposed in cases involving racist offences. Under article 19 of the 1989 Act, the Minister of the Interior could ban the sale to minors of violent or racist publications and could also ban the sale to adults of any publications of foreign origin.

80. A question had been asked about the criminal liability of legal entities. Where a personal fault on the part of the director of a company had benefited that company - for instance, by organizing clandestine work - director and company would be jointly liable.

81. It had been asked whether associations could bring cases of racism before the courts. Under the 1990 Act, an association could bring such a case to court provided that one of its objectives, as expressly defined in its statutes, was the prevention of racist offences and assistance to victims of such offences.

82. With regard to crimes against humanity, French law distinguished between crimes committed during the Second World War and crimes punishable as from 1 March 1994 under the new Penal Code, provided that they were committed in France by a French national or against French persons.

83. Mr. DELBOS (France) said that a number of questions had been asked about the way racism and xenophobia were dealt with on a daily basis in urban areas. France's policy was aimed specifically at prevention, by attacking root causes. One of the key principles on which that policy was based was the selection of priority neighbourhoods where the number of foreigners was significantly greater than in the surrounding commune and region and in France as a whole. They tended to be concentrated in particular areas: thus, of the 400 neighbourhoods selected, about 50 were located in the Ile de France region, about 30 in the Provence-Côte d'Azur region and another 30 in the Rhône-Alpes region around Lyons. The reason for that concentration was that the areas concerned offered

low-cost housing for immigrants, both in the city centres and in surrounding areas. In addition, immigrant communities tended to band together for mutual support and for greater stability. That tended to create excessive concentrations, which it was France's policy to combat.

84. The use of words such as "ghetto" and "segregation" were to be avoided if the problem was to be viewed in a positive light. Recent legislation had introduced measures to reduce concentrations of particular groups in urban areas by making provision for housing and a better fiscal balance between rich and poor communities.

85. A new phase of the policy, which would operate at city rather than neighbourhood level, would start in 1994. Contracts between individual cities and the Government were to be concluded and would ensure that no group would be excluded from the benefits of housing, public amenities, town planning and education. The contracts provided, for example, for special educational assistance for children who fell behind at school, for ways to achieve a better population mix and for better liaison between foreign communities and local community services.

86. The policy was a long-term one which could succeed only through the cooperation of all those involved at all levels. The proper integration of immigrants into the community was essential for the success of urban policy, and integration, for its part, should be seen as only one element in an overall strategy for dealing with every kind of urban problem.

87. Mr. RIMUY (France) said that France's overseas territories were governed by statutes specific to them and not by ordinary law as it applied in metropolitan France and its overseas departments. That special legal regime had been developed to respond to specific needs which had been identified in those territories. However, that approach did not run counter to the principles embodied in the French Constitution: while citizens of overseas territories had access to the public service, they did not have more rights in that respect than other French citizens and the introduction of quotas could therefore not be envisaged. Within certain limits, exceptions could be made to the requirement for career mobility in the case of persons holding posts in the public service who wished to remain in their own territory. In New Caledonia and French Polynesia, for example, prison staff would not be forced to work outside their territory, except for disciplinary reasons or at their own request.

88. In reply to the question on the legal status of overseas territories, the French Government, the territory itself and, in the case of New Caledonia, the provinces, all had their separate areas of jurisdiction. Housing in New Caledonia came under provincial jurisdiction, although the Government would naturally have an interest in any economic and social problems of its overseas territories. Planning and development contracts concluded between the Government and the overseas territories provided for special assistance to particular provinces in need. Health in the overseas territories also came under local

jurisdiction and great efforts were made to see that no discrimination was practised and that the rights of all were equally respected.

89. As far as land ownership was concerned, a system of property redistribution had been in operation in New Caledonia since 1988 and some 70,000 hectares had been redistributed over four years. In French Polynesia, land ownership was in the hands of the Polynesians. Fears that tourism might have the effect of exerting undue pressures on the Polynesians had proved to be without foundation.

90. Mr. POTOCKI (France) said he was well aware that, owing to the shortage of time, his delegation had been unable to answer many of the questions asked, particularly by Mr. Banton. He assured the members of the Committee that he would do his utmost to provide written replies as soon as possible.

91. Mr. YUTZIS (Country Rapporteur) said one of his comments had perhaps been misinterpreted: he had in no way meant to suggest that the Minister concerned was a follower of Mr. Le Pen.

92. The consideration of the report of France was one of the high points of the Committee's work and the degree of interest shown by the French delegation in the issue of racial discrimination, as evidenced by the high calibre of their delegation, deserved commendation. The report, and the open and frank dialogue that had taken place during its consideration, had been of the greatest value.

93. The CHAIRMAN said that he endorsed that view. He was confident that any questions not yet dealt with would be covered in France's next periodic report.

The meeting rose at 6.10 p.m.